



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Scott B. MacKenzie, Treasurer
Warriors for Liberty
2776 S. Arlington Mill Drive #806
Arlington, VA 22206

SEP 25 2015

RE: MUR 6965
(formerly RR 14L-25R)
Warriors for Liberty
and Scott B. MacKenzie, in his
official capacity as treasurer

Dear Mr. MacKenzie:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") became aware of information suggesting that Warriors for Liberty and you, in your official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 29, 2014, the Commission notified the Committee that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 52 U.S.C. § 30109. On September 15, 2015, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(b) by failing to disclose \$241,026.52 in receipts, \$225,995.28 in disbursements, and \$125,519.20 in debts, which collectively totaled \$592,541, on its original 2013 Year-End Report. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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If the Committee is interested in engaging in pre-probable cause conciliation, please contact Roy Q. Lockett, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. No action by the Commission or any person and no information derived in connection with any conciliation attempt by the Commission may be made public by the Commission without the written consent of the respondent and the Commission. 52 U.S.C. § 30109(a)(4)(B). The Commission may proceed to the next step in the enforcement process if the Committee is not interested in pre-probable cause conciliation or a mutually acceptable conciliation agreement cannot be reached within 60 days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

THE UNIVERSITY OF CHICAGO

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **MUR 6965**

4
5 **RESPONDENT:**

Warriors for Liberty
and Scott B. Mackenzie
in his official capacity as treasurer

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9 **I. INTRODUCTION**

10 This matter was generated based on information ascertained by the Federal Election
11 Commission (the "Commission") in the normal course of carrying out its supervisory
12 responsibilities, *see* 52 U.S.C. § 30109(a)(2) (formerly 2 U.S.C. § 437g(a)(2)). The Alternative
13 Dispute Resolution Office ("ADRO") referred Warriors for Liberty and Scott B. Mackenzie in
14 his official capacity as treasurer (the "Committee") to the Office of General Counsel ("OGC")
15 for failing to disclose receipts totaling \$241,026.52, disbursements totaling \$225,995.28, and
16 debts totaling \$125,519.20 on its original 2013 Year-End Report. Based on the available
17 information, the Commission has determined to open a matter under review ("MUR") and find
18 reason to believe that the Committee violated 52 U.S.C. § 30104(b) by failing to accurately
19 disclose receipts, debts, and disbursements.

20 **II. FACTS**

21 The Committee is a multicandidate political committee registered with the Commission.¹
22 On January 31, 2014, the Committee timely filed its 2013 Year-End Report covering the period
23 from July 1, 2013, through December 31, 2013. The report disclosed no receipts, disbursements,

¹ See Statement of Organization (May 22, 2013), available at <http://docquery.fec.gov/pdf/694/13031071694/13031071694.pdf>.

1 or debts.² On February 21, 2014, the Committee filed an Amended 2013 Year-End Report that
2 disclosed \$241,026.52 in receipts, \$225,995.28 in disbursements, and \$125,519.20 in debts.³

3 On April 14, 2014, RAD sent the Committee a Request for Additional Information
4 ("RFAI") regarding the substantial increase in receipts, disbursements, and debts disclosed on
5 the Amended 2013 Year-End Report that were not disclosed on the original filing.⁴

6 On May 28, 2014, the Committee filed a Miscellaneous Electronic Submission ("Form
7 99"), citing the actions of the previous treasurer as the reason for the errors.⁵ The Committee
8 states that when the current treasurer assumed control in February 2014, he amended prior
9 Committee disclosure reports "as the previous Treasurer was not experienced" and "had
10 difficulty using the FECfile software."⁶ The Committee also notes that "nearly 7,000
11 transactions," most from the Committee's small donor program, overwhelmed the prior treasurer,
12 who was unprepared to file them.⁷ On July 10, 2014, RAD referred the Committee to ADRO for
13 failing to disclose receipts, disbursements, and debts that collectively totaled \$592,541 on its
14 original 2013 Year-End Report. The Committee did not respond to ADRO's offer to participate
15 in the ADR process, and ADRO referred the matter to OGC pursuant to the Commission's

² See Committee 2013 Year-End Report (Jan. 31, 2014), *available at* <http://docquery.fec.gov/pdf/086/14031173086/14031173086.pdf>.

³ See Committee 2013 Amended Year-End Report (Feb. 21, 2014), *available at* <http://docquery.fec.gov/pdf/881/14940533881/14940533881.pdf>.

⁴ <http://docquery.fec.gov/pdf/433/14330048433/14330048433.pdf>.

⁵ See Warriors for Liberty, Form 99 (May 28, 2014), *available at* <http://docquery.fec.gov/pdf/326/14961229326/14961229326.pdf>.

⁶ *Id.*

⁷ *Id.*

1 procedures to refer a matter to OGC when a committee elects not to participate in the ADR
2 process.⁸ On October 14, 2014, OGC provided notice of the referral to the Committee.⁹

3 The Committee responded by reiterating that the inexperience of the previous treasurer
4 contributed to the reporting errors in this matter and includes the full text of the Committee's
5 May 28, 2014, Form 99.¹⁰ The Committee further explains that the "unreported transactions
6 were those of a direct mail fundraising program and the receipts and disbursements were handled
7 through an Escrow Account,"¹¹ and the prior treasurer learned that those transactions needed to
8 be disclosed shortly after the original report had been filed.¹² From there, "it was decided that a
9 new [t]reasurer needed to be brought to correct the discrepancy." Finally, the Committee states
10 that it "has ceased its activities and made the decision to terminate upon completion of this
11 process."¹³

12 III. LEGAL ANALYSIS

13 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee
14 treasurers to file reports of receipts and disbursements in accordance with the provisions of

⁸ See *Guidebook for Complainants and Respondents on the FEC Enforcement Process* at 23 (May 2012) (matter may be referred to OGC where respondent fails to respond to ADRO's invitation).

⁹ Letter from Jeff S. Jordan, Assistant General Counsel-Complaints Examination and Legal Administration, FEC to Scott B. MacKenzie, Treasurer of the Committee (Oct. 14, 2014); see also *Agency Procedure for Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4, 2009).

¹⁰ Committee Resp. at 1 (Nov. 24, 2014).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* On January 15, 2015, the Committee filed a Form 99 stating that it had agreed to affiliate with Veterans Victory Fund ("VVF"). See *Warriors for Liberty*, Form 99 (Jan. 15, 2015), available at <http://docquery.fec.gov/pdf/637/15970018637/15970018637.pdf>. Consequently, the Committee states that both entities "agreed to combine operations and operate through VVF with WFL discontinuing all activity." *Id.* The Form 99 also lists debts totaling \$164,494.77 that the Committee transferred to VVF.

1 52 U.S.C. § 30104.¹⁴ These reports must include, *inter alia*, the total amount of receipts and
2 disbursements, including the appropriate itemizations, where required.¹⁵ Additionally, the Act
3 and Commission regulations require political committees to disclose the amount and nature of
4 outstanding debts and obligations until those debts are extinguished.¹⁶

5 Here, the Committee did not comply with the Act's reporting requirements when it failed
6 to disclose receipts, disbursements, and debts that collectively totaled \$592,541 on its original
7 2013 Year-End Report. Therefore, the Commission finds reason to believe that Warriors for
8 Liberty and Scott B. Mackenzie in his official capacity as treasurer violated 52 U.S.C.
9 § 30104(b).

¹⁴ See 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

¹⁵ See 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3(a)-(b).

¹⁶ 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a). A political committee must file separate schedules for debts owed by and to the committee with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 C.F.R. § 104.11(a). A debt or obligation of \$500 or less must be reported as of the time that payment is made or within sixty days of the date on which the political committee incurs the debt, whichever comes first, and a debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 C.F.R. § 104.11(b).